

REMARKS/ARGUMENTS

The Office Action of December 8, 2005 has been carefully reviewed and this response addresses the concerns stated in the Office Action. All objections and rejections are respectfully traversed.

I. STATUS OF THE CLAIMS

Claims 1, 3, 4, 7-14, 17, 18, 21, 22, and 24-47 are pending in the application.

Claims 2, 5, 6, 15, 16, 19, 20, and 23 have been previously canceled.

Claims 1, 3, 4, 7, 8, 21, 22, 24-28, and 41-43 have been allowed.

Claims 44-47 have been added.

Claims 18, 30, 36, and 40 have been objected to as being dependent on rejected base claims, but would be allowable if rewritten to include all the limitations of their respective base claims and any intervening claims. Applicants respectfully point out that the Office Action states that dependent claim 33 is rejected. However, claim 33 depends from claim 30 which is herein objected to. Therefore, Applicants assert that claim 33 should also be objected to. Applicants respectfully request that the 35 U.S.C. § 103(a) rejection of claim 33 be withdrawn.

Claims 9-14 and 34 have been amended by this response to better claim the invention and not to overcome the applied prior art references.

Claims 9-14 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Treyz et al., U.S. Patent No. 6,587,835, issued July 1, 2003, filed February 9, 2000 (Treyz), in view of Duval et al., U.S. Patent Application Publication No. 2001/0054114, published on December 20, 2001, filed on March 9, 2001 (DuVal). Applicants respectfully point out that both Treyz and Duval were published after the Applicants' filing date. Applicants reserve the right to swear behind Treyz and Duval under 37 C.F.R. § 1.131.

Claims 29 and 31-33 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Treyz in view of Aufricht et al., U.S. Patent Application No. 2002/0052781, published on May 2,

2002, filed on May 25, 2001 (Aufrecht), continuation-in-part of United States Patent No. 6,779,042, filed on April 28, 2000 (US '042). Applicants respectfully point out that Aufrecht was published after the Applicants' filing date. Applicants reserve the right to swear behind Aufrecht under 37 C.F.R. § 1.131. As stated above, the rejection of dependent claim 33 should be an objection.

Claims 34, 35, and 37-39 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Treyz in view of Krasinski, U.S. Patent No. 6,966,027, published on November 15, 2005, filed on October 4, 1999 (Krasinski). Applicants respectfully point out that Krasinski was published after the Applicants' filing date. Applicants reserve the right to swear behind Krasinski under 37 C.F.R. § 1.131.

II. REQUEST FOR A ONE-MONTH EXTENSION OF TIME UNDER 37 C.F.R. § 1.136(a)

Applicants herein request a one-month extension of time under 37 C.F.R. § 1.136(a), and herein submit the appropriate fee for a large entity. The Office Action was mailed on December 8, 2005, making this response timely filed, with a one-month extension of time, on or before April 8, 2006.

III. CLAIM REJECTIONS - 35 USC § 103

On pages 2-4, paragraphs 3-4, claims 9-14 and 17 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Treyz in view of Duval. On pages 5-7, claims 29 and 31-33 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Treyz in view of Aufrecht. On pages 7-10, claims 34, 35, and 37-39 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Treyz in view of Krasinski. As stated above, claim 33 should have been objected to, therefore the rejection of claim 33 should be withdrawn.

In order for a rejection under 35 U.S.C. § 103 to be sustained, the Office Action must establish a *prima facie* case of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference. Second, there must be a reasonable expectation of success. Finally, the prior art reference must teach or suggest all the claim limitations.

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in Applicants' disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Further, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

In support of Applicants' assertions of patentability, Applicants set forth the following:

On pages 2-3, with respect to independent claim 9,

A. Applicants have amended claim 9 to better claim the invention and not to overcome the applied prior art references.

B. The Office Action states that Treyz discloses a system in which a handheld computing device may be used to provide a user with shopping assistance services, that Treyz includes a handheld device operating in a context associated with a transmitter/receiver conveying a transmitted signal, said handheld device comprising means for receiving said transmitted signal to form a received signal, said received signal containing an advertisement comprising information from a service provider offering a service (Treyz, col. 39, lines 6-62), said received signal further being present if said handheld device is located within said context, said context being communicatively associated with said transmitter (Treyz, col. 39, lines 6-62), and means for extracting said advertisement if a user of said handheld device has expressed an interest in such a service (col. 55, lines 31-40).

In the first cited passage (Treyz, col. 39, lines 6-62), Treyz states that a screen can be displayed automatically or on request on a handheld device, that the screen can contain an advertisement, a logo, or a status indicator, that a portion of the display can present information received each time the user walks past a merchant in the mall, that a portion of the display can present specials received from a wireless LAN formed of transmitters/receivers, that a portion of the display can present reminders to the user, that a portion of the display can present personal

communications, that the portions can be combined, that the information can be displayed when the handheld device detects the presence of local wireless transmissions that announce the availability of a proximity message.

In the second cited passage (col. 55, lines 31-40), Treyz states that advertisements can be targeted based on the user's preferences based on the user's location.

C. On page 3, the Office Action states that Treyz is silent regarding received information including an XML element and encapsulated in an integrity element.

The Office Action states that DuVal discloses a device for wirelessly receiving internet content and meets the following limitations for receiving with a handheld device: wherein said information includes a first XML element (DuVal, para. 18), and wherein said information is encapsulated in an integrity element (DuVal, Para 18 – the Office Action states that since an integrity element is in the XML format, the device has capabilities to receive the signal).

In the cited passage (DuVal, para. 18), DuVal states that an RF receiver receives HTML and XML data from an internet access device, that the receiver can be implemented using the Bluetooth standard, that the Bluetooth standard aims to replace cable through a wireless point to point link and to simplify data synchronization between internet devices and other computers, that the receiver operates on a globally available 2.45 Ghz radio band, and that the receiver may be implemented with another wireless standard such as IrDA.

In other words, DuVal states that XML information can be transferred using wireless connectivity, including RF and IR. Elsewhere, DuVal states that the handheld device is the transmitter between the server and the display device (DuVal, paras. 14-16). Duval fails as a reference because (1) DuVal's handheld device (internet access device) does not perform Applicants' claimed step of "extracting said information", (2) Treyz and DuVal cannot be combined, and (3) DuVal does not disclose Applicants' claimed integrity element.

With respect to point (1), the system of DuVal includes a server upon which a user creates HTML data, the handheld device 11 forwards the HTML data to a separate display device 10 (DuVal, FIG. 1), whereas Applicants' claim a handheld device having a means for

extracting said information from a service provider offering a service. DuVal's handheld device does not extract information but simply forwards it on to the display device. *Bausch & Lomb*, 230 U.S.P.Q. at 419, teaches that it is impermissible within the framework of 35 U.S.C. § 103 to pick and choose from a reference only so much of it as will support a conclusion of obviousness to the exclusion of other parts necessary to a full appreciation of what the reference fairly suggests to one skilled in the art. DuVal's handheld device is a pass-through mechanism for HTML data, whereas Treyz's handheld device is the terminus for incoming information which displays the HTML data. Treyz does not suggest a combination that would include the system of DuVal because Treyz has neither a pass-through handheld device nor a separate display device. Because DuVal does not disclose or suggest a handheld device with a means for extracting information, and because neither Treyz nor DuVal suggest their combination, the rejection under 35 U.S.C. § 103 of claim 9 should be withdrawn.

With respect to point (2) if Treyz is modified to include the element in question in DuVal, Treyz would not operate as intended because Treyz requires a display on the handheld device of downloaded information which DuVal does not provide because DuVal displays on the separate display device. For this reason, the Treyz and DuVal cannot be combined, and the rejection under 35 U.S.C. § 103 of amended claim 9 should be withdrawn.

With respect to point (3), the Office Action states that because the integrity element is in XML format, DuVal makes Applicants' use of an integrity element obvious. Applicants respectfully point out that amended claim 9 states that information is encapsulated in an integrity element, and that the *information* includes a first XML element. Applicants do not claim, in amended claim 9, that the integrity element *is formatted* in XML, as the Office Action states. Further, Applicants' integrity element is specifically defined in Applicants' specification to include a checksum and other items, none of which are disclosed or suggested by DuVal. Applicants recognized a long-felt need to provide for communicating data to wireless devices while not consuming large amounts of power (Applicants' Specification, page 5, paragraph 9). By using Applicants' claimed integrity element, the handheld device does not have to respond to communications that it receives because the protocol, including Applicants' claimed integrity

element, provides for broadcast (one-way) transmission from the transmitter to the wireless handheld device.

Still further, even if it were possible to combine Treyz and DuVal, which Applicants assert it is not, there is no suggestion or motivation in either of the references to combine Treyz and DuVal because the suggestion or motivation must be found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. Nowhere does Treyz state, explicitly or implicitly, that format flexibility is a desired feature of that invention. Further, Applicants assert that neither Treyz nor DuVal teaches or suggests a solution to the problem with which Applicants' amended claim 9 is concerned, namely, insuring the proper transmission of a broadcast (one-way) message packet. Applicants' claimed integrity element resolves this problem, but neither Treyz nor DuVal even suggest the problem as one to be solved. Still further, DuVal does not address the same subject matter as Treyz (see *Caster v. U.S.*, 9 U.S.P.Q.2d 1753 (Cls. Ct. 1988), *aff'd without opinion*, 883 F/2d 1026 (Fed. Cir. 1989) *reh'g denied*, 1989 U.S.App. LEXIS 12606 (Aug. 21, 1989)), because Treyz is directed to shopping assistance through use of a handheld device, whereas DuVal is directed to a display device for receiving internet content through a handheld device. For these reasons, neither Treyz nor DuVal nor their combination make obvious Applicants' independent amended claim 9, and the rejection under 35 U.S.C. § 103 of amended claim 9 should be withdrawn.

On page 4, with respect to dependent claim 10 (dependent upon independent amended claim 9),

A. Applicants have amended dependent claim 10 to better claim the invention and not to overcome the applied prior art references.

B. The Office Action states that DuVal meets the limitation – the handheld device of amended claim 9, wherein the means for extracting includes plug-ins (DuVal, para. 22). In the cited passage (DuVal, para. 22), DuVal states that its *display device* could be programmed with plug-ins to assist in presentation of different types of audio, graphic, and video data, and that a Java virtual machine acts as an interpreter of Java commands for the microprocessor to interpret Java applets [Emphasis added].

In other words, DuVal states that plug-ins can be used in the display device. Applicants claim a “handheld device” that includes a plug-in where the “plug-in executes when said interest is expressed” (dependent claim 10, dependent upon independent amended claim 9), where information is extracted from the received signal “when a user of said handheld device has expressed an interest in such a service” (independent amended claim 9). DuVal does not disclose or suggest Applicants’ claimed handheld device that includes a plug-in, but instead, DuVal states that the display device could be programmed with plug-ins. DuVal’s display device 10 is distinct from his handheld device 11 (see FIG. 1), and thus DuVal does not disclose Applicants’ functionality. Further, the Office Action does not state a rejection for the element of Applicants’ dependent claim 10, “said plug-in executes when said interest is expressed”, nor does DuVal disclose or suggest Applicants’ claimed functionality. For these reasons, DuVal cannot make obvious Applicants’ amended dependent claim 10. Therefore Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103 of amended dependent claim 10 for the above-stated reasons.

Applicants assert that dependent claims 11-14 are allowable based, at least, on their dependence on allowable independent amended claim 9.

On page 5, with respect to dependent claim 17 (dependent upon independent amended claim 9), the Office Action states that DuVal meets the limitation – the handheld device of amended claim 9 wherein said integrity element includes a second XML element (DuVal, Para 18 – the Office Action states that since an integrity element is in the XML format, the device has capabilities to receive the signal). The cited passage has been summarized above. Applicants assert that DuVal does not make Applicants’ claim 17 obvious because, as stated with respect to amended claim 9, DuVal does not disclose Applicants’ claimed integrity element, and for the other reasons stated with respect to amended claim 9. Therefore Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103 of dependent claim 17 for the above-stated reasons.

On pages 5-6, with respect to independent claim 29,

A. The Office Action states that Treyz discloses a system in which a handheld computing device may be used to provide a user with shopping assistance services. The Office Action also states that Treyz describes a method for receiving contextual information contained in an emitted signal received from a transmitter having a coverage area associated therewith, said method comprising the steps of: establishing a preference for said information (Treyz, col. 55, lines 30-40).

In the cited passage (Treyz, col. 55, lines 30-40), Treyz states that promotional material may be targeted based on the user's preferences and interests and based on the user's location.

Applicants respectfully point out that one of the elements of claim 29, "the contextual information formatted by the transmitter" is not referenced or rejected in the Office Action. As stated above, neither Treyz nor the Office Action state Applicants' claimed emitted signal containing contextual information formatted by the transmitter. For this reason, Treyz does not make obvious Applicants' claim 29.

B. The Office Action states that Treyz is silent on passing the information to the handheld device formatted as an XML element.

The Office Action states that Aufricht discloses an interactive advertisement mechanism enabled to be loaded on a mobile device and for users of mobile devices to operate with such interactive advertisements on their mobile devices in an interactive manner while in an off-line mode. The Office Action further states that Aufricht allows for placing objects such as interactive advertisements such as Internet or Web content on mobile devices (Aufricht, para. 33), and that Aufricht meets the following limitation: receiving said signal containing said information, said information included in a broadcast XML element (Aufricht, para. 33 and Table 1, the Office Action states that placing interactive advertisements from the internet or Web content to mobile devices with XML being one of the allowable forms, and that Aufricht allows for broadcasting of the information (Aufricht, para. 211)).

In the first cited passage (Aufricht, para. 33 and Table 1), Aufricht states that the invention is directed to placing web content such as HTML and XML on mobile devices. In the

second cited passage (Aufricht, para. 211), Aufricht states the server selects advertisements based on user preferences that are identified by the individual users, that the server will listen for transmissions via a transmission protocol from a URL, a broadcast across a transport protocol, a broadcast across a pager network, etc., and that the server scans the transmitted information and selects advertisements related to the user's interests.

Applicants respectfully point out that Aufricht's paragraph 33 is not supported in US '042, from which Aufricht is a continuation-in-part, having a filing date of April 28, 2000. Specifically, the Office Action states that, with respect to paragraph 33, "placing interactive advertisements from the internet or Web content to mobile devices with XML being one of the allowable forms", but US '042 does not contain that particular clause. Further, nowhere does US '042 disclose or suggest the interactive advertisements of Aufricht's paragraph 33. Thus, the priority date for the aspect of Aufricht used to reject Applicants' claim 29 is May 25, 2001. Since Applicants' provisional application, United States Provisional Patent Application # 60/225,349 (US '349), which the examiner has found deserving of the file date for the purpose of priority, and which supports claim 29 at least on pages 26 and 27 of US '349, was filed on August 15, 2000, Applicants assert that Aufricht, filed almost a year after Applicants' provisional application, is not a valid reference against Applicants' claim 29. Therefore Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103 of claim 29 for the above-stated reasons, as well as claims 31 and 32 which depend from claim 29.

Applicants assert that dependent claims 31-32 are allowable based, at least, on their dependence on allowable independent claim 29.

On pages 6-7 and 9, with respect to claims 33 and 38, the Office Action states that the examiner takes Official Notice that it is well known to utilize plug-ins associated with interests and that it would have been obvious to modify the Treyz/Aufricht or the Treyz/Krasinski combination to include plug-ins to connect a desired user with the desired interest and filter out those that do not share the interest.

The MPEP § 2144.03 states that Official Notice without documentary evidence to support an examiner's conclusion is permissible only in some circumstances. Official notice

unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art, are capable of instant and unquestionable demonstration as being well-known. It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. As the court held in *In re Zurko*, 258 F.3d 1379, 1385, 59 USPQ2d 1693, 1697 (Fed. Cir. 2001), an assessment of basic knowledge and common sense that is not based on any evidence in the record lacks substantial evidence support. See also *In re Lee*, 277 F.3d 1338, 1344-45, 61 USPQ2d 1430, 1434-35 (Fed. Cir. 2002) (In reversing the Board's decision, the court stated "'common knowledge and common sense' on which the Board relied in rejecting Lee's application are not the specialized knowledge and expertise contemplated by the Administrative Procedure Act. Conclusory statements such as those here provided do not fulfill the agency's obligation. The board cannot rely on conclusory statements when dealing with particular combinations of prior art and specific claims, but must set forth the rationale on which it relies."). Ordinarily, there must be some form of evidence in the record to support an assertion of common knowledge. See *Lee*, 277 F.3d at 1344-45, 61 USPQ2d at 1434-35 (Fed. Cir. 2002); *Zurko*, 258 F.3d at 1386, 59 USPQ2d at 1697 (holding that general conclusions concerning what is "basic knowledge" or "common sense" to one of ordinary skill in the art without specific factual findings and some concrete evidence in the record to support these findings will not support an obviousness rejection).

With respect to claim 33, Applicants respectfully point out that claim 33 depends from claim 30, which has been objected to within this Office Action. Therefore the rejection of claim 33 should be withdrawn.

With respect to claim 38, Applicants herein traverse the Official Notice taken by the Office Action because Official Notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known (MPEP § 2144.03). Applicants assert that if Applicants' claimed step of establishing a preference by using a plug-in is capable of instant and unquestionable demonstration, it ought to be a simple matter

to find a reference stating such. Thus, Office Notice combined with either Treyz/Aufricht or Treyz/Krasinski cannot make obvious Applicants' claims 33 and 38. Therefore Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 103 of claims 33 and 38 for the above-stated reasons.

On pages 7-8, with respect to claim 34,

A. Applicants have amended independent claim 34 to better claim the invention and not to overcome the applied prior art references.

B. The Office Action states that Treyz discloses a system in which a handheld computing device may be used to provide a user with shopping assistance services and a method of utilizing executable code in a transmitter to establish a context of a user having a handheld device and operating within a coverage area associated with said transmitter, said method comprising the steps of: receiving information about a service at said transmitter, said information being of interest to a user of said handheld device if said user is located within said coverage area (Treyz, col. 55, lines 30-40), emitting said signal to said handheld device located within said coverage area, said information displayed to a user of said handheld device (Treyz, col. 39, lines 49-62).

In the first cited passage (col. 55, lines 31-40), Treyz states that advertisements can be targeted based on the user's preferences based on the user's location. In the second cited passage (Treyz, col. 39, lines 49-62), Treyz states that a proximity message, such as an advertisement for a merchant, may be displayed by the handheld device, that the message may be automatically displayed when the user comes within range of a local wireless transmitter/receiver.

In other words Treyz states that advertisements based on a user's location can be displayed on a handheld device. The steps of Treyz include targeting advertisements to a user based on the user's location and displaying the advertisement on the handheld device when the user comes within range of the transmitter.

Applicants have amended claim 34 to affirmatively claim that the steps of the method are accomplished through the executable code in the transmitter. Support for the amendment can be

found in the preamble of original claim 34. Treyz does not disclose or suggest Applicants' now claimed step of receiving, through the executable code in the transmitter, information about a service at a transmitter or executing the executable code because Treyz's steps do not teach or suggest Applicants' claimed executable code in the transmitter for receiving information about a service. Further, Treyz does not disclose or suggest Applicants' claimed emitting the signal, from the transmitter, through executable code in the transmitter for the same reason as previously stated. Because Applicants' claimed method steps are carried out in the executable code of the transmitter, and because Treyz does not disclose or suggest such a capability, amended claim 34 is not made obvious by Treyz. Applicants respectfully request the withdrawal of the rejection of claim 34 under 35 U.S.C. § 103.

C. The Office Action states that Treyz is silent on passing the information to the handheld device formatted as an XML element.

D. The Office Action states that Krasinski discloses a method for streaming XML content in a manner that allows the receiver to decode the XML data that is actually received. The Office Action states that Krasinski is relied upon because it utilizes an XML transmitter to process a text source using the identified XML template to generate the transmitted content in a streamed XML format, and that thus, Krasinski meets the following limitation: formatting said information into an XML element for conversion into a signal (Krasinski, col. 4, lines 23-40).

In the cited passage (Krasinski, col. 4, lines 23-40), Krasinski states that a data storage device includes a text source and XML templates that indicate how the text source should be decomposed in constructing the XML tree, and that the XML transmitter will process the text source using the identified XML template to generate the transmitted content. Elsewhere, Krasinski states that an XML receiver is a special purpose device embodied as a general purpose computing system or integrated with another device, that the XML receiver must include a processor and related memory and a data storage device to include storage for received content nodes that are associated with an XML tree that is being received by the XML receiver (Krasinski, col. 4, lines 41-63). In other words, the system of Krasinski requires storage for templates and processing within the receiver to reconstruct XML documents.

The Office Action states that Treyz and Krasinski are combinable because they share a common endeavor, namely, receivers that receive and send information. Applicants respectfully point out that Krasinski calls for a receiver that is embodied as a general purpose processor, but Treyz requires a handheld computing device to accomplish its intended purpose. Therefore, Treyz will not operate as intended if combined with Krasinski. For this reason, Applicants respectfully request that the rejection of amended claim 34 under 35 U.S.C. § 103 be withdrawn.

On page 8, with respect to claim 35, the Office Action states that Treyz meets the limitation – The method of claim 34 wherein said information is only displayed to said user if said user has established a preference prior to receiving said signal (Treyz, col. 39, lines 49-62). In the cited passage (Treyz, col. 39, lines 49-62), Treyz states that a proximity message, such as an advertisement for a merchant, may be displayed by the handheld device, and that the message may be automatically displayed when the user comes within range of a local wireless transmitter/receiver. In other words Treyz states that advertisements based on a user's location can be displayed on a handheld device. Treyz does not, however, disclose Applicants' claimed method step of displaying the information only if the user has established a preference prior to receiving the signal because the user's simple act of walking by a store, which triggers the proximity message of Treyz, does not imply that the user has performed Applicants' claimed step of establishing a preference. In fact the user may not be interested in the advertisement that appears as part of the proximity message. For this reason, the cited passage in Treyz does not make obvious Applicants' claim 35, and the rejection of claim 35 under 35 U.S.C. § 103 should be withdrawn.

On pages 8-9, with respect to claim 37, Applicants refer to the arguments with respect to amended claim 34 with respect to the Krasinski reference. For this reason, Treyz and Krasinski do not make obvious Applicants' claim 37, and the rejection of claim 37 under 35 U.S.C. § 103 should be withdrawn.

Applicants assert that claims 11-14, 18, 30-32, 36, and 39-40 are in condition for allowance at least by their dependence upon allowable independent claims.

Because Applicants have shown that Treyz, DuVal, Aufricht, and Krasinski, either separately or in combination, do not make obvious each and every step of Applicants' independent claims 29, 34, and 37, and each and every element of Applicants' independent claim 9, then independent claims 9, 29, 34, and 37, as well as dependent claims 10-14, 17, 18, 30-32, 35, 36, and 38-40, are not made obvious by Treyz, DuVal, Aufricht, and Krasinski, and a rejection under 35 U.S.C. § 103(a) is inappropriate. Applicants respectfully request the withdrawal of the rejection under 35 U.S.C. § 103(a) directed to independent claims 9, 29, 34, and 37, as well as dependent claims 10-14, 17, 18, 30-32, 35, 36, and 38-40, and find independent claims 9, 29, 34, and 37, as well as dependent claims 10-14, 17, 18, 30-32, 35, 36, and 38-40, in condition for allowance.

IV. ALLOWED CLAIMS

The Office Action states that claims 1, 3, 4, 7, 8, 21, 22, 24, 25-28, and 41-43 are allowed.

On page 10, the Office Action states that the reason for allowance for independent claim 1 (and dependent claims 3, 4, 7, and 8) is that a transmitter having a means for formatting the required information into an XML and encapsulating that element into an integrity element (wherein the integrity element provide a means of verification through digital signatures) was neither found, suggested, nor made evident by the prior art. Applicants respectfully point out that the parenthetical qualifier is neither claimed nor disclosed by Applicants. Whereas Applicants' claimed integrity element is based upon the contents of the information it encapsulates, a digital signature is a "stamp" that is unique to the person associated with the signature and is not based on the content of the information to which it is attached. Applicants assert that the parenthetical should be stricken from the reason for allowance of independent claim 1 (and dependent claims 3, 4, 7, and 8).

On page 10, the Office Action states that the reason for allowance for independent claim 25 (and dependent claims 21, 22, 24, and 26-28) is that a method for establishing a context of a user located within a coverage area associated with a transmitter that includes encapsulating a first XML element in a second XML element and converting the first XML element and the integrity element into a signal was neither found, suggested, nor made evident by the prior art.

On page 10, the Office Action states that the reason for allowance for independent claim 41 (and dependent claims 42 and 43) is that the means for determining by the transmitter contextually-relevant information about a service from raw data was neither found, suggested, nor made evident by the prior art. Applicants assert that new claims 44-47 are allowable for the same reason as claims 41-43 are allowable.

On page 10, the Office Action states that claims 18, 30, 36, and 40 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

On page 11, the Office Action states that the reason for allowance of dependent claim 18 is that an integrity element containing the various values such as checksum, size value, seed value, and an operator was neither found, suggested, nor made evident by the prior art.

On page 11, the Office Action states that the reason for allowance of dependent claims 30 and 40 (and dependent claim 33) is that information in the form of an XML element encapsulated within an integrity element was neither found, suggested, nor made evident by the prior art.

On page 11, the Office Action states that the reason for allowance of dependent claim 36 is that the generating and emitting of a time element in conjunction with the XML element for establishing a temporal context for the user was not found, suggested, nor made evident by the prior art.

V. CONCLUSION

Claims 1, 3, 4, 7-14, 17, 18, 21, 22, and 24-47 are now in condition for allowance.

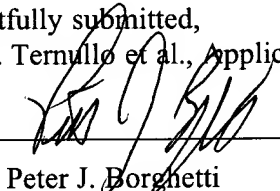
Applicants respectfully request that the Examiner withdraw the all rejections and objections, and find claims 9-14, 17, 18, and 29-40 allowable for the reasons stated above, and further respectfully request that a timely Notice of Allowance be issued in this case.

The Commissioner for Patents is authorized to charge additional fees, including the fee for a large entity for a one-month extension of time, or credit overpayment to Deposit Account No. 03-2410, Order No. 12078-141.

The following information is presented in the event that a call may be deemed desirable by the Examiner: Peter J. Borghetti (617) 854-4000

Respectfully submitted,
Noah J. Ternullo et al., Applicants

Date: March 20, 2006

By: 
Peter J. Borghetti
Reg. No. 42,345
Attorney for Applicants